REMARKS

This Amendment is made in response to the Advisory Action mailed August 16, 2010, and is filed with a Request for Continued Examination. Claim 1 has been amended. Claims 1, 5, 8-10 and 12-19 remain pending in this application. Reconsideration and withdrawal of the objections to and rejections of this application are respectfully requested in view of the above claims, and further, in view of the following remarks.

Claim 1 has been amended and is directed to an aerosol dentifrice formulation comprising water, a particulate abrasive and a propellant, characterised in that the propellant comprises a non-hydrocarbon propellant being 3-2wt% of the formulation and a hydrocarbon propellant being 2-3 wt% of the formulation, wherein the non-hydrocarbon propellant consists of dimethylether and the hydrocarbon propellant consists of n-butane, and wherein the formulation is expelled as a foam. Support for the amendment to claim 1 can be found at page 3, lines 4-7, of the published international specification.

Claims 1-5, 8-10 and 12-19 have been rejected under 35 U.S.C. §103(a), as being unpatentable over International Patent Publication No. WO 01/62211 ("the '211 publication") in view of U.S. Patent 5,824,289, granted October 20, 1998, to Stoltz ("Stoltz"). Reconsideration and withdrawal of the rejection are respectfully requested.

The '211 publication relates to a post-foaming composition, i.e., a composition that is dispensed as a ribbon of paste or gel, and thereafter slowly swells up due to the release of the propellant. This type of self expanding paste is a post-foaming composition and not an "aerosol dentifrice" as in the present invention. In fact, at page1 1, paragraph 3, of the '211 publication, toothpaste foams that are dispensed from their dispensers in an "already foamed form" are characterized as being disadvantageous in that "the amount of active ingredient is often much too low" and "[S]such toothpaste foams are usually stable only for a short period".

Further, the Action admits on page 4, that the '211 publication does not "teach utilizing [a] propellant mixture such as DME and n-butane". There is no suggestion that propellants other than hydrocarbon propellants be used in the formulations, thus providing no incentive to use alternate propellant systems or mixtures of different classes of propellants. Given this admission as well as the other distinctions, Applicant is unsure why the '211 publication is even a reference, let alone a primary reference.

Regarding Stoltz, it relates to an oil-in-water emulsion, again, a very different formulation that that claimed herein, dispensed with an aerosol propellant, defined as including isobutene, propane, or mixtures thereof (see, col.2, lines 34-36; and col. 6, lines 64-66). The problem addressed by Stoltz is not one of alternative propellant systems but of rapidly dissipating foams and ensuring there is stability of the formulation within the oral cavity, not on a toothbrush as in the present invention. The problem addressed by Stoltz is

not remedied by using a dual propellant system, but rather, by using an oil-in-water (hydrophobic) based emulsion. Stoltz does no more than suggest mixing aerosol propellants that "can produce sufficiently high vapor pressure". It does not disclose DME in combination with a hydrocarbon propellant as a suitable system. Importantly, DME is not exemplified as a propellant in combination with another propellant, let alone a hydrocarbon propellant. In the examples, the only combination of propellants that is "taught" is a combination of isobutane (A-31) and isobutane/propane (A-70), both being mixtures of hydrocarbon propellants. Stoltz does not teach or suggest a specific combination of DME and n-butane propellants. Therefore, a skilled person interested in post-foaming compositions (as disclosed in the '211 application) would not refer to Stoltz for guidance on suitable propellant systems.

The Action uses Stoltz as a secondary reference because it sets out a long list of suitable propellants that happens to mention DME and other hydrocarbon propellants and is then suggesting that it would be obvious to combine this with '211 publication. Applicant disagrees as there is nothing in either the '211 publication or Stoltz, alone, or in any fair combination, to motivate the skilled person to look to the other document, let alone combine their teaching to arrive at the instant invention. Furthermore, to combine the vast range of possible propellants from Stoltz and then include these in the post-foaming formulation of the '211 publication would not result in the present invention, which formulation is expelled as a foam. One would not look at a post-foaming formulation and then an acidic oil-in-water aerosol formulation in order to solve a stability issue with high water content formulation.

Therefore, the Action fails to establish a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection under Section 103(a) are respectfully requested.

In view of the foregoing, favorable reconsideration of claims 1 and allowance of this application with claims 1, 5, 8-10 and 12-19 are earnestly solicited.

Respectfully Submitted,

/Nora Stein-Fernandez/

Nora Stein-Fernandez
Attorney for Applicant
Registration No.36,689

GlaxoSmithKline Corporation
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5044
Facsimile (610) 270-5090